

Table 4.3-10. Summary of Special Status Species within the Vicinity of Offshore Cable Installation Operations

Fish	
Green sturgeon <i>Acipenser medirostris</i>	Yelloweye <i>Sebastes ruberrimus</i>
Bocaccio <i>Sebastes paucispinis</i>	Cowcod <i>Sebastes levis</i>
South-central California coast steelhead <i>Oncorhynchus mykiss irideus</i>	
Birds	
Double-crested cormorant <i>Phalacrocorax auritus</i>	Elegant tern <i>Sterna elegans</i>
California gull <i>Larus californicus</i>	California brown pelican <i>Pelecanus occidentalis californicus</i>
Ashy storm petrel (<i>Oceanodroma homochroa</i>)	California least tern <i>Sterna antillarum browni</i>
Western snowy plover (<i>Charadrius alexandrinus nivosus</i>)	
Mammals	
Bottlenose dolphin <i>Tursiops truncatus</i>	Short-beaked common dolphin <i>Delphinus delphis</i>
Long-beaked common dolphin <i>Delphinus capensis</i>	California gray whale <i>Eshchrichtius robustus</i>
Humpback whale <i>Megaptera novaeangliae</i>	California sea lion <i>Zalophus californianus californianus</i>
Pacific harbor seal <i>Phoca vitulina richardsi</i>	Southern sea otter <i>Enhydra lutris nereis</i>

The rocky substrate within the area is considered essential habitat and a habitat of concern for managed species, such as rockfish, while the sedimentary seafloor, which is the most common type throughout the Project site, is essential fish habitat for managed species such as flatfish (*i.e.*, English sole and Dover sole). No kelp, seagrass, or other habitats of concern have been reported in the Project area. The rocky substrate-associated managed fish species observed during the ROV survey included adult and juvenile rockfishes (*Sebastes* spp.), lingcod (*Ophiodon elongatus*), and cabezon (*Scorpaenichthys marmoratus*). The sedimentary substrate-associated managed fish species observed during the ROV survey included flatfishes including sanddabs (*Citharichthys* spp.), Dover sole (*Microstomas pacificus*), English sole (*Plueronectes=Parophrys vetulus*), unidentified rockfish (*Sebastes* sp), skates (*Raja* sp),

1 and anchovies (*Engraulis mordax*) in the water column. The water column supports the
2 pelagic taxa and is considered essential for those species.

3 While impacts to these essential habitats are expected, the small area affected and the
4 short-term duration of impact, coupled with the availability of similar habitats throughout
5 the region, result in less than significant impacts.

6 **4.3.2 Regulatory Setting**

7 This section identifies and discusses the regulations and policies administered by
8 resource agencies pertaining to those biological resources that are known to exist
9 and/or have the potential to occur within the Project area.

10 **Federal Regulations**

11 *Endangered Species Act (ESA) of 1972*

12 The Federal Endangered Species Act (FESA), administered by the U.S. Fish and
13 Wildlife Service (USFWS) and the NOAA Fisheries (ne: NMFS), provides protection to
14 species listed as Threatened (FT) or Endangered (FE), or proposed for listing as
15 Threatened (PFT) or Endangered (PFE). In addition to the listed species, the Federal
16 government also maintains lists of species that are neither formally listed nor proposed,
17 but could potentially be listed in the future. Federal candidate species (FC) include taxa
18 for which substantial information on biological vulnerability and potential threats exist,
19 and are maintained in order to support the appropriateness of proposing to list the taxa
20 as an endangered or threatened species. Federal Species of Concern (FSC) comprise
21 those species that should be given consideration during environmental review.

22 Section 9 of the FESA prohibits the “take” of any member of a listed species. Take is
23 defined as, “...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect,
24 or to attempt to engage in any such conduct.” Harass is “an intentional or negligent act
25 or omission that creates the likelihood of injury to a listed species by annoying it to such
26 an extent as to significantly disrupt normal behavior patterns that include, but are not
27 limited to, breeding, feeding, or sheltering.” Harm is defined as “...significant habitat
28 modification or degradation that results in death or injury to listed species by
29 significantly impairing behavioral patterns such as breeding, feeding, or sheltering.”

30 Projects that would result in the take of a federally listed or proposed species are
31 required to consult with USFWS or NMFS. The objective of consultation is to determine
32 whether the project would jeopardize the continued existence of a listed or proposed

species, and to determine what mitigation measures would be required to avoid jeopardy.

Consultations are conducted under Sections 7 or 10 of FESA depending on the involvement by the Federal government. Section 7 requires agencies to make a finding on all Federal actions, including the approval by an agency of a public or private action, such as the issuance of a permit pursuant to Section 10 of the Rivers and Harbor Act and Section 404 of the Clean Water Act, on the potential to jeopardize the continued existence of any listed or proposed species potentially impacted by the action. Consultation under section 10 of FESA is conducted when there is no Federal involvement in a project except compliance with FESA.

Under Section 7 of FESA, the USFWS and NMFS are authorized to issue Incidental Take Permits (ITP) for the take of a listed species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency. The ITP includes measures to minimize the take. Under Section 10(a), the USFWS and NMFS can issue ITPs for non-Federal projects after a Habitat Conservation Plan (HCP) has been prepared.

The USFWS also administers the Federal Migratory Bird Treaty Act of 1918 (16 USC 703-711) (see below). Under the MBTA, it is unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in 50 CFR 10, including feathers or other parts, nests, eggs or products, except as allowed by implementing regulations (50 CFR 21).

Magnuson-Stevens Fishery Conservation and Management Act and Sustainable Fisheries Act of 1996

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. § 1801 et seq., is intended to implement procedures to conserve and manage fishery resources. Further, as amended by the Sustainable Fisheries Act of 1996, review of projects whose business is conducted pursuant to Federal permits and licenses, must consider the designation, promotion and protection of essential fish habitat (EFH) for those species included in a Federal Fishery Management Plan, as established pursuant to 16 U.S.C. § 1851 - 1863. Specifically, Section 303(a) (7) of the Magnuson-Stevens Act, as amended, requires that EFH be properly described and identified.

1 Essential Fish Habitat is defined as "...those waters and substrate necessary to fish for
2 spawning, breeding, feeding, or growth to maturity". "Waters", as used in this definition,
3 are defined to include "aquatic areas and their associated physical, chemical, and
4 biological properties that are used by fish". These may include "...areas historically
5 used by fish where appropriate; 'substrate' to include sediment, hard bottom, structures
6 underlying the waters, and associated biological communities". "Necessary" means,
7 "the habitat required to support a sustainable fishery and the managed species'
8 contribution to a healthy ecosystem."

9 *Marine Protection, Research, and Sanctuaries Act of 1972*

10 The Marine Protection, Research, and Sanctuaries Act (MPRSA) establishes a
11 framework for the control of dumping material in the territorial sea and seaward and
12 includes specific criteria and conditions for permissible dumping. The MPRSA is the
13 primary Federal environmental statute governing the discharge of dredged material in
14 the ocean.

15 Section 102 of the MPRSA authorizes the U.S. Environmental Protection Agency (EPA)
16 to announce environmental criteria for evaluation of all dumping permit actions, to retain
17 review authority over ACOE Section 103 permits, and to designate ocean disposal sites
18 for dredged and other material disposal. The EPA's regulations for ocean disposal are
19 published at 40 C.F.R. § 220-229. Under the authority of section 103 of the MPRSA,
20 the ACOE may issue ocean dumping permits for dredged and other material if EPA
21 concurs with the decision. If EPA does not agree with the ACOE permit decision, a
22 waiver process under Section 103 allows further action to be taken. The permitting
23 regulations advertised by the ACOE, under MPRSA, appear in 33 C.F.R. § 320-330 and
24 § 335-338. Based on an evaluation of compliance with the regulatory criteria of 40
25 C.F.R. § 227, both EPA and the ACOE may prohibit or restrict disposal of material that
26 does not meet the criteria. The EPA and the ACOE also may determine that ocean
27 disposal is inappropriate because of Ocean Dredged Material Disposal Site
28 management restrictions or because options for beneficial use(s) exist(s). Site
29 management guidance is provided in 40 C.F.R. § 228.7-228.11.

30 *Marine Mammal Protection Act*

31 The Marine Mammal Protection Act of 1972 (MMPA), 16 USC 1361 et seq., as
32 amended, establishes a national policy designed to protect and conserve marine
33 mammals and their habitats. Under the MMPA, the Secretary of Commerce is
34 responsible for the conservation and management of pinnipeds (other than walruses)

and cetaceans. This act also specifies and defines actions that are considered harassment and provides for agency-mandated compliance with mitigations to reduce impacts to the protected species. The Secretary of the Interior is responsible for walruses, sea and river otters, polar bears, manatees and dugongs. The Secretary of Commerce delegated MMPA authority to NOAA Fisheries. Part of the responsibility that NOAA Fisheries has under the MMPA involves monitoring populations of marine mammals to make sure that they stay at optimum levels. If a population falls below its optimum level, it is designated as "depleted," and a conservation plan is developed to guide research and management actions to restore the population to healthy levels.

Clean Water Act of 1972

The Clean Water Act (CWA) is a comprehensive piece of legislation that generally includes reference to the Federal Water Pollution Control Act of 1972, and its substantial supplementation by the CWA of 1977. Both Acts were subsequently amended in 1981, 1987, and 1993. Overall, the CWA seeks to protect the nation's water from pollution by setting water quality standards for surface water and by limiting the discharge of effluents into waters of the United States (U.S.). These water quality standards are enforced by the EPA. The CWA also provides for development of municipal and industrial wastewater treatment standards and a permitting system to control wastewater discharges to surface waters. State operation of the program is encouraged. The CWA is the primary Federal statute governing the discharge of dredged and/or fill material into U.S. waters. Section 401 of the CWA provides the EPA or its designee direct input to the ACOE permitting process for in-water construction and Section 404 of the CWA specifies the regulatory process that the ACOE must follow in authorizing projects within the waters of the U.S.

The ACOE is responsible for the issuance of permits for the placement of dredged or fill material into waters of the U.S. (waters) pursuant to Section 404 of the Clean Water Act (33 USC 1344). As defined by the ACOE in 33 CFR 328.3(a)(3), waters are those that are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; tributaries and impoundments to such waters; all interstate waters including interstate wetlands; and territorial seas.

Migratory Bird Treaty Act of 1918 (MBTA), (16 USC 703 et seq., as amended)

The Migratory Bird Treaty Act (1916), agreed to by the U.S. and Canada; the 1936 Convention for the Protection of Migratory Birds and Animals, between the U.S. and

Mexico; and subsequent amendments to these Acts provide legal protection for almost all breeding bird species occurring in the U.S. The Migratory Bird Treaty Act restricts the killing, taking, collecting, and selling or purchasing of native bird species or their parts, nests, or eggs. Certain game bird species are allowed to be hunted for specific periods determined by Federal and State governments. The intent of the Migratory Bird Treaty Act is to eliminate any commercial market for migratory birds, feathers, or bird parts, especially for eagles and other birds of prey.

Rivers and Harbors Act (33 U.S.C. § 401)

Section 10 of the Rivers and Harbors Act limits the construction of structures and the discharge of fill into navigable waters of the U.S.

Other relevant Federal environmental regulations include:

- Marine Plastic Pollution Research and Control Act prohibits the disposal of plastics and non-biodegradable material into the marine waters;
- Oil Pollution Act of 1990 (33 U.S.C. § 2712) requires owners and operators of facilities that could cause substantial harm to the environment to prepare and submit plans for responding to worst-case discharges of oil and hazardous substances. The passage of OPA 90 directed the State of California to pass a more stringent spill response and recovery regulation and to create the State Office of Spill Prevention and Response to review and regulate oil spill plans and contracts;
- National Marine Invasive Species Acts specify the requirements related to the exchange/discharge of ballast water from ocean-going vessels that enter State waters or the waters around marine sanctuaries.

State Regulations

Porter-Cologne Water Quality Control Act of 1969 (CA Water Code §§ 13000-13999.10)

This act mandates that waters of the State shall be protected, such that activities which may affect waters of the State shall be regulated to attain the highest quality. This Act establishes the State Water Resources Control Board (SWRCB) as the principal State agency for the coordinated control of water quality in California. The SWRCB provides regulations that mandate a “non-degradation policy” for State waters, especially those of high quality. The SWRCB is divided into local regional boards. Those regional boards

have been delegated authority to issue permits or waive water quality conditions under Section 401 of the CWA (see above) for the ACOE permitting process.

California Coastal Act of 1976

The California Coastal Act of 1976 created the California Coastal Commission and six area offices which are responsible for granting development permits for coastal projects and for determining consistency between Federal and State coastal management programs. They also administer tests of oil spill cleanup measures. The Commission's authority includes reviewing proposed project actions, as well as reviewing project actions for the integration of policies that are established by the California Coastal Act. The legislature, also in 1976, created a State agency, the California Coastal Conservancy, which is authorized to take steps to preserve, enhance, and restore coastal resources and to address issues that regulations alone cannot resolve.

California Clean Coast Act (SB 771) 2006

This act establishes limitations for shipboard incinerators, the discharge of hazardous material, including oily bilgewater, graywater, and sewage into the waters of the State of California or a marine sanctuary. In addition, it provides specific direction for the reporting of discharges to the State Water Resources Control Board and the submission of information on visiting vessels to the State Lands Commission.

California Endangered Species Act

The CDFG administers a number of laws and programs designed to protect fish and wildlife resources. Principal of these is the California Endangered Species Act of 1984 (CESA - Fish and Game Code Section 2050) that regulates the listing and take of State endangered (SE) and threatened species (ST). Under Section 2081 of CESA, CDFG may authorize the take of an Endangered and/or Threatened species, or candidate species by a permit or Memorandum of Understanding (MOU) for scientific, educational, or management purposes.

CDFG maintains lists of Candidate-Endangered species (SCE) and Candidate-Threatened species (SCT). California candidate species are afforded the same level of protection as listed species. CDFG also designates Species of Special Concern (CSC) that are species of limited distribution, declining populations, diminishing habitat, or unusual scientific, recreational, or educational value. These species do not have the same legal protection as listed species, but may be added to official lists in the future.

1 The CSC list is intended by CDFG as a management tool to call attention to declining
2 populations and focus efforts on decreasing threats to long-term viability.

3 CDFG administers other State laws designed to protect wildlife and plants. Under
4 Section 3511 of the Fish and Game Code, CDFG designates species that are afforded
5 “fully protected” (FP) status. Under this protection, CDFG may authorize take or
6 capture of a designated species only for “...necessary scientific research, including
7 efforts to recover fully protected, threatened, or endangered species” and “...live
8 capture and relocation of those species pursuant to a permit for the protection of
9 livestock.” Section 3503 of the Fish and Game Code protects all birds-of-prey, their
10 eggs, and their nests.

11 CDFG manages the California Native Plant Protection Act of 1977 (Fish and Game
12 Code Section 1900, et seq.), which was enacted to identify, designate and, protect rare
13 plants. In accordance with CDFG guidelines, California Native Plant Society (CNPS) 1B
14 list plants are considered “rare” under the Act, and are evaluated in CEQA reports.

15 *California Species Preservation Act of 1970*

16 The California Fish and Game Commission is required to establish a list of endangered
17 species and a list of threatened species. The Commission adds or removes species
18 from either list if it finds, upon the receipt of sufficient scientific information pursuant to
19 this article, that the action is warranted.

20 *Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (OSPR)*

21 The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 (Act)
22 established OSPR to provide protection of California's natural resources. The Act
23 covers all aspects of marine oil spill prevention and response in California. It
24 established an Administrator who is given broad powers to implement the provisions of
25 the Act. The Act requires that the California Department of Fish & Game and the
26 Administrator of OSPR, establish rescue and rehabilitation stations for seabirds, sea
27 otters, and other marine mammals.

28 *California Harbors and Navigation Code, § 1- 7340*

29 The California Harbors and Navigation Code describes and defines provisions and
30 legislative policy for California harbors, navigable waters, traffic, cargo, wrecks and
31 salvage, marinas, construction/improvements, and harbor and port mitigation.

4.3.3 Significance Criteria

Based on the mandatory findings of significance criteria in Appendix G of the State CEQA Guidelines, and on criteria utilized in EIRs for similar projects, an impact would be significant if any of the following conditions, or potential thereof, would result with implementation of the proposed Project:

- A substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game, the U.S. Fish and Wildlife Service, or the NOAA Fisheries;
- Result in the “take” of special status species in accordance with NOAA Fisheries policies for marine mammals;
- A substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulation, or by the California Coastal Commission, California Department of Fish and Game, the U.S. Fish and Wildlife Service, or the NOAA Fisheries;
- A substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- A substantial interference with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of a native wildlife nursery site;
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan;
- A substantial reduction in the habitat of a fish or wildlife species;
- A substantial effect on a habitat that is considered essential for fish species managed by the Pacific Fisheries Management Council;
- Cause the population of a fish or wildlife population to drop below self-sustaining levels;

- Any substantial alteration or destruction of habitat that prevents reestablishment of biological communities that inhabited the area prior to the Project;
- Result in the introduction of non-native, invasive species;
- Threaten to eliminate a plant or animal community; and/or,
- Conflict with any local policies or ordinances protecting biological resources. For the purpose of this report, relevant goals and policies regarding sensitive resources from the San Luis Obispo County Land Use Ordinance (Title 23), Estero Planning Area Land Use Element, and Agriculture and Open Space Element were used to assess conflicts with local policies.

4.3.4 Impact Analysis and Mitigation

Terrestrial Habitats and Biota

During cable installation operations, potential impacts to the terrestrial habitats and associated biota could occur throughout the approximate 10.5-mile (17-km) terrestrial cable route, referred to as the ridge conduit system. Although the existing cable conduit system was installed in 1990 at the parking lot at Montaña de Oro State Park complete with post markers and manholes, activities that could affect terrestrial resources include those resulting in re-disturbance of the existing terrestrial cable route due to access by Project trucks, cable trailers, tractors and other necessary Project equipment and materials. Construction disturbance would include brush clearing to expose existing manholes, trimming of existing coast live oak trees along access roads, as well as increased erosion hazards and potential secondary impacts to riparian corridors and associated drainages located along the existing cable route. Lastly, proposed construction activities could result in further habitat degradation and impacts to special-status plant and wildlife species. Discussions of the anticipated impacts to the terrestrial biological resources from the proposed activities are provided below. Less than significant and beneficial impacts are discussed first, followed by the potentially significant impacts which are numbered.

Less than Significant Impacts

Construction-Related. Construction activities will entail the use of heavy equipment and increased human presence throughout the ridge conduit system and selected staging areas. This could potentially disturb wildlife along access routes, equipment staging areas, and each of the individual manhole sites where cable pulling operations would

occur, potentially resulting in mortality of less mobile species, particularly ground-dwelling (fossorial) species such as California ground squirrel, Botta's pocket gopher, and broad-footed mole. More mobile species are likely to be temporarily displaced to alternative habitats until the completion of construction activities. These impacts are considered short-term and less than significant (Class III).

Operation and Abandonment-related. Other than ensuring that the power feed and transmission equipment in the terminal station are in proper working order, no routine maintenance is planned for this Project. As such, associated long-term cable operations are not expected to result in any impacts to terrestrial biological resources (Class III).

Abandonment activities will result in additional disturbance to the terrestrial cable route due to various equipment access, marker post removal, and manhole demolition activities, etc. With these combined abandonment activities, existing erosion features along the terrestrial cable route would be exacerbated, and new erosion hazards would potentially be created along the route. Further, these activities may result in additional short-term impacts to special-status plant and wildlife species along the route. However, because the activities associated with abandonment and removal will be short-term, local, and will allow the terrestrial habitat and biota to return to pre-installation conditions, the impacts are not considered significant (Class III).

Potentially Significant Impacts

Impact TERBIO-1: Impacts to Migratory Birds and Raptors

Cable installation activities could adversely affect nesting activities of protected migratory birds and raptors (Potentially Significant, Class II).

A number of migratory bird species, including shrub/ground nesters (e.g., California towhee, Bewick's wren, white-crowned sparrow, and California thrasher) and raptors (red-tailed hawk, great horned owl, red-shouldered hawk, etc.) that require large trees for nesting, could potentially nest in the habitats within and adjacent to the terrestrial cable route and proposed staging areas. Tree trimming and ground-clearing activities could destroy nests, nestlings, or hatchlings, and result in a violation of the Migratory Bird Treaty Act (16 USC 703-712) and CDFG codes (Sections 3503, 3503.5, and 3800). Cable installation activities also have the potential to disrupt nesting activities within the vicinity of the cable alignments. These laws and regulations prohibit the intentional or unintentional capture, possession, or destruction of any migratory bird, its nest, eggs,

1 young, or parts thereof without a permit issued by the USFWS. Disturbance that
2 causes nest abandonment and/or loss of reproductive effort could be considered a
3 “take” and is therefore a potentially significant impact but mitigable (Class II).

4 Mitigation Measure for TERBIO-1: Impacts to Protected Migratory Birds and Raptors

5 **Previous Mitigation Measure from 1991 County Coastal Development Permit**
6 **(D900110D):**

7 Construction activity would not take place within 0.5-mile (0.8-km) of identified raptor
8 nesting areas during the period of February 1 through July 15.

9 **Additional TERBIO-1 Mitigation Measures:**

10 **MM TERBIO-1a. Vegetation Clearing Restrictions.** Initial vegetation removal shall
11 be conducted prior to, or after, the typical migratory bird nesting
12 season (March 1 through August 1) to avoid any potential impact to
13 migratory bird nesting activity. Therefore, initial vegetation clearing
14 and tree trimming along the alignments should be conducted
15 between the months of August and February.

16 **MM TERBIO-1b. Nesting Bird Surveys.** If MM TERBIO-1a. is infeasible, pre-
17 construction surveys shall be conducted prior to any vegetation
18 removal to identify any potential bird nesting activity, and:

- 19 • If active nest sites of bird species protected under the Migratory
20 Bird Treaty Act are observed within the vicinity of the Project
21 site, then the Project shall be modified and/or delayed as
22 necessary to avoid direct take of the identified nests, eggs,
23 and/or young;
- 24 • If active nest sites of bird species of special concern (e.g.,
25 loggerhead shrike, California horned lark, etc.) are observed
26 within the vicinity of the Project site, then CDFG shall be
27 contacted to establish the appropriate buffer around the nest
28 site. Construction activities in the buffer zone shall be
29 prohibited until the young have fledged the nest and achieved
30 independence; and,

- Active nests shall be documented by a qualified biologist and a letter-report shall be submitted to the State Lands Commission (lead agency), county and to the USFWS and CDFG, documenting Project compliance with the MBTA and applicable Project mitigation measures.

Impact TERBIO-2: Impacts to Special-status Plant and Wildlife Species

Construction activities could potentially adversely affect special-status plant and wildlife species occurring in the Project area (Potentially Significant, Class II).

The proposed Project will require re-disturbance of the existing AT&T onshore cable route ROW including minor brush clearing and tree trimming to facilitate equipment access and exposure of existing manholes. This will include vehicle and equipment access through Los Osos Creek and other drainage features throughout the Project area and establishment of several equipment staging areas. As indicated above, overall cable installation activities will be confined to the existing terrestrial cable route and parking facility at Montaña de Oro State Park with only minor modifications and/or temporary disturbance of adjacent terrestrial habitat areas.

Special-status plant species occurring in the Project area have the potential to be adversely affected by proposed cable installation activities. Specifically, the CNPS List 1-B.1 federally threatened Morro manzanita and CNPS List 1-B.1 De la Cruz manzanita will require pruning to provide access along the Rim Trail portion of the ROW within Montaña de Oro State Park (manholes 96F to 90F). Further, the CNPS List 1-B.2 plant species San Luis Obispo owl's clover and Cambria morning glory are present within the annual grassland habitat areas along portions of the ROW. The 1990 HAW-5 County of San Luis Obispo Conditions of Approval address identification and protection of special-status species, and provide specific requirements for restoration and revegetation of sensitive plant species disturbed by the previous project, which included provisions for future disturbance and cable installation activities. Specifically, the need to prune sensitive manzanita species for access along the Rim Trail within Montaña de Oro State Park is addressed in Section D.20.f.2 (1990 HAW-5 County of San Luis Obispo Conditions of Approval), which required removal of the eucalyptus canopy and manzanita mitigation planting as permanent mitigation for future cable installation/maintenance activities along the trail. Based upon recent discussions with State park staff, the eucalyptus removal and mitigation planting efforts in 1991 were successful and serve as a long-term mitigation strategy for all future manzanita disturbances along the

1 Rim Trail, including the proposed AAG Project (V. Cicero, personal communication,
2 Aug. 8, 2008). However, the proposed Project still has the potential to result in direct
3 impacts to previously unaffected manzanita along the Rim Trail as well as other special-
4 status plant species along the ROW due to Project-related vehicle/equipment access
5 and staging activities, etc. Therefore, potential impacts to special-status plant species
6 along the route are considered significant, but mitigable (Class II) with implementation
7 of the mitigation measures outlined below.

8 A focused Morro shoulderband snail habitat assessment was completed by the Morro
9 Group, Inc. as part of the biological resources survey completed in May and June 2008
10 (see Appendix F). As determined by the 2008 Morro shoulderband snail survey and
11 mapping effort, potential Project-related Morro shoulderband snail critical habitat
12 impacts include a total of 3,248 ft² (301.7 m²) of native coastal scrub between manholes
13 108F and 94F, and 1,753 ft² (162.9 m²) of non-native veldt grass habitat near manhole
14 96F, for a total Morro shoulderband snail critical habitat impact of 5,002 ft² (464.7 m²)
15 (see Figure 4.3-1). Potential temporary impacts would include crushing or pruning of
16 existing vegetation along the alignments, but no permanent loss of Morro shoulderband
17 snail critical habitat features. Proposed Project activities, including vehicle/equipment
18 access and cable installation, also have the potential to result in direct impacts to Morro
19 shoulderband snail that would be considered a “take” under the ESA. Therefore,
20 potential impacts to Morro shoulderband snail are considered significant, but mitigable
21 (Class II) with implementation of the mitigation measures below.

22 The California horned lizard inhabits the drier and more open areas within scrub
23 vegetation and has a high likelihood of occurrence within the Project area. Specifically,
24 the California horned lizard may be present within and/or adjacent to the western
25 portion of the existing cable route ROW containing scrub habitat features, including
26 areas where eroded trail repairs are being proposed between manholes 94F and 92F
27 (see Figure 4.3-1). Crushing and pruning of scrub vegetation within these areas,
28 including erosion feature repairs, may result in direct impacts to this sensitive species.
29 Because of the special-status of this species, potential impacts to coast horned lizard
30 are considered significant, but mitigable (Class II) with implementation of the mitigation
31 measures below.

32 Project access by trucks, cable trailers, tractors, and other necessary equipment would
33 cross Los Osos Creek and two small tributary channels on the Silva property, using
34 existing unpaved road crossings that pass directly through the creek and drainage
35 channels (refer to Figure 4.3-2). The creek crossings are used regularly by ranch

vehicles and consist of shallow, sandy, or rocky bottom areas with no vegetation and minimal habitat for aquatic species. However, Los Osos Creek is known to contain several sensitive aquatic and semi-aquatic species, including California red-legged frog, south-central California coast ESU steelhead, and southwestern pond turtle. During a reconnaissance-level survey of the Project area conducted by Padre on August 5, 2008, juvenile steelhead trout were observed within the shallow pools located immediately upstream and downstream of the proposed creek crossings. Although not previously reported in Los Osos Creek and surrounding areas, the riparian habitat of Los Osos Creek also provides suitable habitat for the special-status two-striped garter snake. During the spring time frame proposed for Project construction, these crossings are likely to have flowing water conditions. The 1990 HAW-5 Conditions of Approval specifically address impacts to Los Osos Creek and associated stream crossings, wetlands, and special-status species (Section B, and in section D.20.d.1). In summary, these conditions require monitoring, avoidance, erosion control, and revegetation of any impacts, and limit Project-related creek crossings to the normal dry period between June 1st and October 15th except where prior written permission has been granted by State and Federal agency representatives. Therefore, potential impacts to special-status aquatic and semi-aquatic species of Los Osos Creek and associated drainages are considered significant, but mitigable (Class II) with implementation of the measures referenced above.

Special-status bird species such as the northern harrier, and sharp-shinned hawk could be potentially impacted during construction through the short-term loss of foraging opportunities within areas of construction. Cooper's hawk, white-tailed kite, and yellow warbler also have the potential to be affected by the short-term disturbance of both foraging habitat and potential nest sites (i.e., eucalyptus, riparian woodland, etc.). Due to the relatively small, linear area of proposed disturbance and short-term construction period, overall impacts to foraging raptors and special-status passerine species are expected to be minimal. However, potential nesting habitat for all bird species should be carefully surveyed prior to construction as stipulated in Mitigation Measure TERBIO-1, above.

Mitigation Measures for Impact TERBIO-2: Potential Impacts to Special-Status Plant and Wildlife Species

Previous Mitigation Measure from 1991 County Coastal Development Permit (D900110D):

Mitigation Monitoring

1. *Prior to commencing construction of each phase the Applicant shall retain a mitigation monitor approved by the County Environmental Coordinator. The mitigation monitor shall submit a monitoring Plan to the Environmental Coordinator prior to construction for review and approval.*

Staking of Disturbance Areas

2. *Prior to commencing construction activities or any clearing in preparation for construction staging, for each phase, the Applicant shall stake with lath and flag all areas proposed for disturbance to construction control lines. Any disturbance outside of these areas shall be prohibited and construction crews shall be so informed.*

Clearance and Inspection

3. *Prior to commencing construction activities or any clearing in preparation for construction staging, the Applicant shall obtain a letter of release from the County Environmental Coordinator after field inspection of construction control staking by the Environmental Coordinator, State Parks and the mitigation monitor.*

Mitigation Measures included in the Project by AT&T

Access and Transportation

4. *When providing access to fiber optic cable right-of-way, the stream and any washes would be crossed at existing roads or bridges. Any construction activity in a perennial stream would be prohibited unless specifically allowed by the appropriate agency official or the California Department of Fish and Game Enforcement Representative. All stream channels and washes would be returned to their natural state. California Department of Fish and Game stream alteration agreement Section 1601*

and 1603 permits would control and stipulate construction procedures at stream crossings in California. All streams would be crossed between June 1 and October 15, except where prior written permission has been granted by the State and Federal representatives.

Clearing and Site Preparation

5. Sidehill cuts would be kept to a minimum to ensure resource protection and a safe and stable plan for efficient equipment use. The appropriate agency official (i.e., county and/or county compliance monitor) would provide assistance and would approve sidehill cuts prior to construction.

6. Existing ground cover such as grasses, leaves, brush, and tree trimmings would be cleared and piled only to the extent necessary. Slash and limbs would be disposed of as directed by the appropriate agency official (i.e., county and/or county compliance monitor).

7. Trees and shrubs on the right-of-way that are not cleared would be protected from damage during construction. The bulldozers would maintain their blade in a raised position except at areas designated for clearing, such as bore pits, manholes, splice boxes and washes.

8. AT&T would trim all woody vegetation in preference to cutting and would cut all woody vegetation in preference to bulldozing.

Safety/Health

9. Care would be taken to avoid lubricant and fuel spills and other types of pollution in all areas including streams and other water bodies and in their immediate drainage areas. All spills and trash would be cleaned up immediately.

10. Engine oil changed would be contained in suitable containers and disposed of as refuse.

11. Construction equipment would not be refueled or serviced within stream channels.

12. Garbage and other refuse would be disposed of in an authorized disposal site or landfill.

13. *Construction sites would be maintained in a sanitary condition at all times; waste materials at those sites would be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.*

Threatened or Endangered Plants and Animals

14. *Field surveys would be conducted for State and Federal listed species potentially present along the route. Where appropriate and necessary, site-specific mitigation would be developed and approved by the land management agencies, U.S. Fish and Wildlife Service, and California Department of Fish and Game. Field work for identification of plant species would be done before construction and would be scheduled to coincide with known flowering periods and/or during periods of phenological development necessary to identify the plant species of concern.*

Stream Crossings, Wetlands, and Fisheries

15. *Where the right-of-way crosses streams, the banks would be stabilized to prevent erosion. Construction techniques would minimize damage to shorelines, recreational areas, and fish and wildlife habitat.*
16. *During construction activities near streams, sedimentation (detention) basins and/or straw bale or fabric filters will be constructed to prevent suspended sediments from reaching downstream watercourses or lakes, as required by the California Department of Fish and Game.*
17. *Disturbance to riparian vegetation and wetlands would be minimized by avoidance where possible. Approaches to streams would require selective clearing of vegetation subject to California Fish and Game authorization. No mature riparian trees would be removed.*

General Mitigation Measures Applying to All Routes and Improvements

18. *Prior to commencement of construction activities, the Applicant shall be required to clearly mark all of the trees to be removed during construction as well as any trees that will be trimmed. In the case of manzanita, the marking can be accomplished by stringing colored surveyors tape to denote the areas where plants will be affected.*

19. Any oak trees, or manzanita that are within ten feet of an area to be graded, not including those to be removed shall be temporarily marked for protection (e.g., flagged with a different color surveyors tape). The purpose of the marking is to act as a reminder to the construction crew that these areas are not to be disturbed during grading. Marking shall be completed prior to commencement of any grading operations within the affected segment of the line (e.g., the rim trail).

SLO Junction to Clark Valley Road

20. In areas of coastal scrub and Arroyo de la Cruz manzanita, the route shall follow existing roads or trails as closely as possible to reduce vegetation removal. Revegetation shall be with fast growing herbs and shall include shrubs native to the local coastal scrub community.
21. In areas of chaparral, construction shall follow the existing road, and disturb the vegetation along the side as little as possible.

Clark Valley Road to Los Osos Creek

22. The existing road west of Clark Valley Road shall be followed where feasible to avoid the oaks and shrubs.
23. All Morro manzanitas along the route shall be flagged and avoided where possible.

0.2-Mile West of the Eastern Boundary of Montaña de Oro State Park to Hazard Canyon Road

24. Where the Rim Trail is wide, no brush removal should be required and significant disruption to the root systems can be avoided. Trimming of manzanita along the side of the trail may be required but shall be kept to a minimum by following proper pruning procedures.

Additional TERBIO-2 Mitigation Measures

The following mitigation measures are recommended to further reduce or eliminate construction-related impacts to special-status species known to occur or with the potential to occur along the terrestrial cable route. This includes protective measures to

avoid and/or minimize impacts to surrounding habitats during the construction phase of the Project:

General Measures

MM TERBIO-2a. Worker Orientation. Prior to construction, an agency-approved biological monitor shall conduct a worker orientation program that includes information on and emphasizes the presence of all special-status species within the Project site, identification, their habitat requirements, and applicable regulatory policies and provisions regarding their protection, and measures being implemented to avoid and/or minimize impacts for all construction contractors (site supervisors, equipment operators and laborers);

MM TERBIO-2b. Monitoring Frequency. All construction monitoring shall be conducted at a frequency and duration specified by the appropriate regulatory agency(s) (e.g., county, CDFG, USFWS, and NOAA Fisheries) in consultation with AT&T. This consultation shall include appropriate Project authorization from the USFWS (i.e., approved Incidental Take Permit/Habitat Conservation Plan) relative to impacts to the federally-listed Morro shoulderband snail;

MM TERBIO-2c. Exclusionary Fencing. In accordance with resource agency guidance, exclusionary fencing shall be erected at the boundaries of equipment staging areas to preclude equipment and human intrusion into adjacent habitats with emphasis on protection of areas containing special-status species (i.e., coastal dune scrub, annual grassland, etc.). The exact location of exclusionary fencing for each staging area shall be determined by an agency-approved biological monitor. The fencing shall remain in place throughout the construction phase of the Project;

MM TERBIO-2d. Limits of Night-time Operations. At no time shall any night-time operations and/or construction activities be allowed along the terrestrial cable route from manholes 109F to 4.5. Any required night-time equipment lighting within the Montaña de Oro AT&T Parking Lot to facilitate the Shore-End Segment cable pull and/or within the AT&T Cable Station shall be shielded away from

adjacent wildlife habitat areas and pointed downward to minimize lighting/glare impacts to wildlife; and,

MM TERBIO-2e. Spill Prevention and Contingency Plan. AT&T or its construction contractor shall prepare and implement a Spill Prevention and Contingency Plan that includes provisions for avoiding and/or minimizing impacts to sensitive onshore habitat areas, wetlands and waterways of the Project area (i.e., Los Osos Creek and associated tributaries) due to spills during Project implementation. Specifically, the plan shall include but not be limited to the following provisions:

- All equipment fueling shall be conducted within the designated staging areas of the Project site. At no time shall any equipment fueling be conducted within 50 feet (15 m) of any wetland and/or existing waterway;
- An overview of the containment measures to appropriately store and contain all fuels and associated petroleum products during the Project shall be included in the plan. This shall include specific provisions for equipment staging areas, such as the need for drip pans underneath all parked equipment and designated storage areas for fuel dispensing equipment with visqueen lining and secondary containment; and,
- A description of the response equipment that will be on-site during construction and exact procedures for responding to any inadvertent spills including miscellaneous fuel and/or lubricant spills from construction equipment and vehicles during operations. Final specifications of the Spill Prevention and Contingency Plan shall be reviewed and approved by the CSLC, county and CDFG prior to Project implementation.

Additional Protective Measures for Special-Status Wildlife

MM TERBIO-2f. USFWS Authorization. Prior to installation of the terrestrial cable route, AT&T shall provide an approved USFWS Incidental Take Permit and Habitat Conservation Plan that identifies the conservation measures that AT&T agrees to implement to avoid

and/or minimize impacts to Morro shoulderband snail during Project operations. The Incidental Take Permit/Habitat Conservation Plan will document methods of relocation of Morro shoulderband snails from work areas and mitigating temporary impacts to Morro shoulderband snail critical habitat elements (i.e., coastal dune scrub). This shall include a letter of agreement from State Parks approving the final provisions of the proposed Morro shoulderband snail mitigation site within Montaña de Oro State Park as illustrated on Figure 4.3-1. All measures of the Habitat Conservation Plan specific to the Project shall become Conditions of Approval.

MM TERBIO-2g. Morro Shoulderband Snail Survey(s). Prior to the disturbance of potentially suitable habitat areas (manholes 109F to 96F and Rim Trail), a USFWS-approved biologist shall survey for, collect, and relocate any Morro shoulderband snails found within the Project area to suitable on-site or off-site habitat areas not planned for disturbance. USFWS authorization shall be required for this activity (i.e., approved Incidental Take Permit/Habitat Conservation Plan).

MM TERBIO-2h. Coast Horned Lizard Survey(s). A CDFG-approved biologist shall conduct pre-construction surveys to determine presence/absence of California horned lizard within and in areas adjacent to chaparral and/or scrub habitats with emphasis from manholes 109F to 82F. Surveys shall only be required during the active period of California horned lizards (generally April through September). If California horned lizards are identified adjacent to and/or within work areas, then hand rakes or an equivalent shall be utilized by biological monitors to scarify the ground surface and encourage the horned lizards (and other wildlife) to vacate the immediate area prior to construction. As necessary, the agency-approved biological monitor shall physically relocate California horned lizard to suitable habitat located outside the construction zone. Exact procedures and protocols for relocation shall be agreed to during pre-Project consultation with CDFG;

MM TERBIO-2i. Vegetation Clearing Monitoring. A USFWS and CDFG-approved biological monitor shall be on-site during all vegetation clearing and periodically monitor the Project site during construction activities to

inspect protective fencing, equipment staging areas, and physically relocate/remove any special-status wildlife species entering the construction zone (i.e., Morro shoulderband snail, California horned lizard, etc.). All special-status species shall be relocated to suitable habitat located outside the construction zone by a qualified biologist. Exact procedures and protocols for relocation shall be agreed to during pre-Project consultation with USFWS and CDFG;

MM TERBIO-2j. Los Osos Creek Pre-Activity Surveys. Prior to each required crossing of Los Osos Creek and associated drainages by Project vehicles and equipment, a CDFG-approved biologist shall conduct a focused pre-activity survey of the proposed crossing including a buffer of approximately 50 feet (15 m) upstream and downstream of the crossing to determine presence/absence of aquatic and semi-aquatic special-status species including but not limited to steelhead trout, California red-legged frog, southwestern pond turtle, and two-striped garter snake. All special-status species within and/or immediately adjacent to the crossing shall be relocated to suitable habitat located outside the roadway by a qualified biologist. Exact procedures and protocols for relocation of species of concern (e.g., southwestern pond turtle, two-striped garter snake, etc.) shall be agreed to during pre-Project consultation with CDFG. At no time shall any federally-listed species (e.g., steelhead trout, California red-legged frog, etc.) be relocated from the crossings without prior authorization from the NMFS and/or USFWS.

MM TERBIO-2k. Prohibit Domestic Pets. During all construction activities, domestic pets shall not be allowed within the construction area to minimize the potential for wildlife harassment.

Impact TERBIO-3: Degradation of Natural Habitats

The proposed Project has the potential to result in permanent loss and/or long-term degradation and fragmentation of natural habitats including sensitive plant communities, which provide forage, cover, and breeding elements for several wildlife taxa, including special-status species (Potentially Significant, Class II).

Plant communities existing within and adjacent to the Project site have been disturbed by previous activities including, but not limited to, development of the State Park road

1 and trail system, the original terrestrial cable route installation and construction of the
2 Montaña de Oro Parking Lot in 1990, planting of non-native vegetation including
3 eucalyptus windrows, and ongoing private property owner agricultural practices
4 including cattle grazing. Although portions of natural habitat may be intact (i.e.,
5 Montaña de Oro State Park), the value of portions of these plant communities has been
6 reduced due to fragmentation, introduction of non-native vegetation, and periodic
7 disturbance.

8 The proposed Project involves re-disturbance of the existing terrestrial cable route to
9 facilitate installation of the new cable system. The proposed Project is similar to the
10 1994 TPC-5 and 1998 China/US cable installation activities, and will utilize the same
11 access routes, equipment, methods, and implement the same sensitive habitat
12 avoidance and mitigation measures. No new construction or significant deviation from
13 the previous projects' activities is proposed, other than the addition of the Twissleman
14 Road access route, a private dirt/gravel road that begins at Prefumo Canyon Road and
15 provides access to manholes 28½ to 19 (refer to Figure 4.3-4). Twisselman Road
16 provides a more direct route than previously used access roads, and would reduce
17 potential Project-related oak tree impacts; however, installation of the proposed cable
18 system along the existing cable route has the potential to result in additional permanent
19 loss and/or temporary disturbance of the plant communities existing within the Project
20 area including central dune scrub, maritime chaparral, coast live oak woodland, and
21 perennial grassland habitat areas.

22 Based on Project-specific surveys, central dune scrub, central maritime chaparral, and
23 fragmented valley needlegrass grassland were found in or immediately adjacent to the
24 Project site and are considered sensitive by State and/or Federal agencies. Additional
25 sensitive habitats within or adjacent to the Project site include sandy beach and riparian
26 areas. Temporary disturbance and/or loss of central dune scrub and maritime chaparral
27 habitat would be considered significant because of their habitat value and declining
28 acreage within coastal San Luis Obispo County. A total of 3,248 square feet (302
29 square meters) of native coastal scrub between manholes 108F and 94F would be
30 temporarily impacted by Project operations (see Figure 4.3-1). Potential temporary
31 impacts would include crushing or pruning of existing vegetation along the alignments,
32 but no permanent loss of coastal dune scrub would occur as part of the Project.
33 Pruning of maritime chaparral components (i.e., Morro manzanita and De la Cruz
34 manzanita) along the Rim Trail would also be required as part of the Project to allow
35 vehicle/equipment access to manholes 96F through 89F. Although previous project
36 impacts to manzanita were mitigated via the 1991 mitigation plantings within Montaña

de Oro State Park, the proposed Project could result in inadvertent impacts to other maritime chaparral areas not impacted by past projects. Lastly, fragmented portions of valley needlegrass grassland habitat areas located along the eastern portion of the alignment within the vicinity of manhole 9½ could be impacted by Project vehicles and equipment access. Therefore, potential impacts to coastal dune scrub, maritime chaparral, and valley needlegrass grassland are considered significant, but mitigable (Class II) with implementation of the mitigation measures below.

Project access by trucks, cable trailers, tractors, and other necessary equipment would also result in additional impacts to coast live oak woodland habitat areas along the ROW and access roads by damaging overhanging branches. Based on the biological assessment of all equipment access routes and staging areas, no Project components would require oak tree removals. Rather, all impacts identified would consist of pruning overhanging branches to allow vehicle and equipment access. The total number and severity of oaks damaged will depend on which portions of the ROW and which access roads are utilized, and the height and width of the equipment used for Project construction. A summary of potential oak tree impacts is provided in Table 4.3-11.

Table 4.3-11. Summary of Oak Tree Impacts

Segment	Segment Access Routes	Oak Tree Impacts ¹
MH 19 to MH 30.5	Twissleman, Spradlin, and Jorgensen access routes along ROW.	<u>ROW:</u> Access to MH 28.5 would impact 15 oaks if the ROW is used. Access to MH 28.5 from the west side of the ROW would impact two oaks. Access to MH 30.5 will impact two oaks. <u>Access Roads:</u> Use of Spradlin access road would impact three oaks, use of Jorgensen access road would impact one oak, use of Twissleman access road would impact eight oaks.
MH 32.5 to MH 36.5	Along ROW and immediately adjacent roads on Swift property.	<u>ROW:</u> Access between MH 36.5 and MH 34.5 would impact 12 oaks. Access between MH 34.5 and MH 32.5 would impact eight oaks.
MH 45 to MH 51	California Coast Properties along ROW.	<u>ROW:</u> Access between MH 47.5 and MH 51 would impact five oaks. Impacts can be avoided by use of side road to east.

1

Table 4.3-11. (Continued)

Segment	Segment Access Routes	Oak Tree Impacts ¹
MH 55 to MH 64	Boam along ROW.	<u>Boam/ROW:</u> Access between MH 55 and 64 would impact 39 oaks.
MH 69.5 to MH 74	Silva along ROW.	<u>Access Roads:</u> Access to MH69.5 to MH 82 would impact up to 20 oaks along the Silva access road. Impact numbers depend on the height of equipment traveling the road.

2 Source: Morro Group 2008a.

3 ¹ Oak tree impacts were determined based on estimated height and width of equipment. Required
4 width of the Project ROW and access roads was estimated to be a minimum of 8 feet (2.4 m). All
5 limbs within access roads or the Project ROW below 10 feet (3.1 m) in height were expected to
6 be impacted by pruning activities.

7
8 The 1990 HAW-5 Conditions of Approval (D900132D) specifically address oak tree
9 impacts in section D.20.a.1-10. This section requires avoidance where possible, oak
10 pruning to reduce impacts prior to vehicle access, and mitigation planting for oaks
11 impacted by pruning or vehicle damage. The 1990 County of San Luis Obispo
12 Conditions of Approval specify a 5:1 replacement ratio for all oak trees removed by the
13 Project, but do not specify a ratio for impacts to trees from pruning. Subsequent fiber-
14 optic cable installation projects have utilized a 2:1 ratio to mitigate oak tree trimming
15 impacts along the cable routes. Implementation of the 1990 HAW-5 Conditions of
16 Approval (D900132D), in addition to the oak tree avoidance and minimization measures
17 outlined below, would reduce potentially significant impacts to coast live oak woodland
18 habitat areas along the ROW to less than significant (Class II).

19 Project access by trucks, cable trailers, tractors, and other necessary equipment would
20 cross Los Osos Creek and two small tributary channels on the Silva property, using
21 existing unpaved road crossings that pass directly through the creek and drainage
22 channels. The riparian habitat areas of Los Osos Creek and wetlands within several
23 small drainages and swales that cross the ROW likely qualify as "Waters of the U.S.,"
24 thereby falling under the jurisdiction of the ACOE jurisdiction per section 404 of the
25 Clean Water Act, and CDFG jurisdiction under section 1603 of the Fish and Game
26 Code. Los Osos Creek is also known to contain sensitive aquatic species, including but
27 not limited to the California red-legged frog, steelhead trout, and southwestern pond
28 turtle. The creek and drainage crossings are regularly used by ranch vehicles and
29 mostly consist of shallow, sandy, or rocky bottom areas with no vegetation or habitat for

1 aquatic species. During the dry season and expected work window, these crossings
2 are likely to have no or extremely low water levels. The 1990 HAW-5 Conditions of
3 Approval specifically address impacts to Los Osos Creek and stream crossings,
4 wetlands, and fisheries in section B, and in section D.20.d.1. These conditions require
5 monitoring, avoidance, erosion control, and revegetation of any impact areas, and limit
6 Project-related creek crossings to the normal dry period between June 1st and October
7 15th, except where prior written permission has been granted by State and Federal
8 agency representatives. Therefore, Project impacts to sensitive riparian and wetland
9 habitat areas would be considered less than significant (Class II) with appropriate
10 implementation of the 1990 HAW-5 Conditions of Approval (D900132D), in addition to
11 the monitoring provisions outlined below.

12 Lastly, Project access by trucks, cable trailers, tractors, and other necessary equipment
13 along the ROW and access roads could cause or create erosion control issues on steep
14 road sections, and on steep grassy slopes that are not typically used as heavy
15 equipment access roadways. Specifically, repeated vehicle travel would reduce existing
16 plant cover, and could loosen or disturb soils, thereby increasing the potential for
17 erosion to occur. Project construction is proposed to begin at the normal cessation of
18 the rainy season (*i.e.* March or April), which will require implementation of measures to
19 reduce erosion potential during construction. The proposed Project also includes
20 procedures for repairs of existing erosion features located along the Rim Trail. Existing
21 erosion features include small- to medium-sized rills and gullies along the Rim Trail
22 ROW that have compromised the root systems of sensitive manzanita species along the
23 route, exposed a portion of cable, and resulted in additional impacts to aesthetic
24 resources of the ridgeline ROW. Therefore, the proposed Project has the potential to
25 create additional erosion hazards and exacerbate existing features along the ROW,
26 which could impact adjacent sensitive habitat areas due to silt and sedimentation
27 effects, root exposure, and localized slope failures. Further increased silt and sediment
28 sources could result in secondary impacts to Los Osos Creek and nearby drainages
29 due to increased turbidity. The 1990 HAW-5 Conditions of Approval (D900132D)
30 address erosion control in detail in sections B and C. These conditions require
31 implementation of temporary and permanent erosion control measures, preparation of
32 site-specific restoration plans, seasonal restrictions on work activities, reestablishment
33 of vegetation cover in disturbed areas, and installation of erosion control structures
34 where necessary to ensure that long-term disturbance and/or degradation of the
35 existing habitat areas within the Project site are avoided and/or minimized. Therefore,
36 implementation of the 1990 HAW-5 Conditions of Approval (D900132D), in addition to

the erosion control measures outlined below, would reduce potentially significant impacts due to erosion hazards along the ROW to less than significant (Class III).

Mitigation Measures for Impact TERBIO-3: Degradation of Natural Habitats

Previous Mitigation Measure from 1991 County Coastal Development Permit (D900110D):

General Measures

1. *Standard procedures for the proposed fiber optic cable Project would include implementation of erosion control and revegetation measures to ensure that lands disturbed by construction activities would be restored to a stable, productive, and aesthetically acceptable condition.*
2. *Detailed site-specific restoration and reclamation plans would be developed under the direction of the appropriate agency official. Because the proposed right-of-way is composed of many types of terrain, soils, water, bedrock, vegetation, land uses, and climatic conditions, AT&T would include sets of techniques and measures tailored to each condition encountered. Site-specific erosion control, re-vegetation, and restoration measures would be implemented under the direction of the appropriate agency official.*
3. *During construction of the Project, an AT&T representative would provide:*
 - a) *liaison with the appropriate agency officials;*
 - b) *expertise to direct applicable restoration procedure when special conditions are encountered without causing construction delays; and*
 - c) *favorable public relations.*
4. *General erosion control restoration measures are applicable to the following areas:*
 - *seasonal restrictions for construction phases;*
 - *right-of-way and site clearing;*
 - *plowing, rock sawing, or trenching, and preservation of topsoil;*
 - *backfilling and grading;*
 - *land preparation and cultivation;*
 - *revegetation, and;*
 - *maintenance and monitoring.*

5. *Actual construction activities would immediately follow clearing operations. Rehabilitation and revegetation would immediately follow construction operations, especially in areas of soil that are highly susceptible to wind or water erosion and/or in other special areas.*
6. *AT&T would conduct all activities associated with the Project in a manner that would avoid or minimize degradation of air, land, and water quality. In the construction, operation, maintenance, and abandonment of the Project, AT&T would perform its activities in accordance with applicable air and water quality standards, related facility siting standard and related plans of implementation, including but not limited to, the Clean Air Act, as amended (42 USC 1321).*
7. *All design material and construction, operation, maintenance, and termination practices would be in accordance with safe and proven engineering practices.*

Specific Resource/Activity Measures

Access and Transportation

8. *Design and construction of all temporary, reconstructed, and newly constructed roads would ensure proper drainage, minimize soil erosion, and preserve topsoil. The design would include clearing work, rehabilitation, and use and maintenance agreements associated with transportation needs.*
9. *Construction-related traffic would be restricted to routes approved by the appropriate agency official. New access roads or cross-country vehicle travel would not be permitted unless prior written approval was given by the appropriate agency official. Temporary roads used by AT&T would be rehabilitated when construction activities were complete, as approved by the appropriate agency official.*
10. *Where possible, the right-of-way would be used as an access road during the construction period. The Department of Parks and Recreation would require that the access roads paralleling the fiber optic cable be closed and vegetative cover reestablished after construction is completed.*

1 11. *As a general rule, no overland access to the right-of-way would be*
2 *permitted. When necessary, overland access would be specified in lieu of*
3 *road construction or reconstruction.*

4 12. *All temporary roads would be closed and areas restored without undue*
5 *delay or maintained as specified in the land use authorizations.*

6 13. *All damaged streets would be repaired to the permit requirements of the*
7 *governing agency (e.g., city or county road or street cut permits), or*
8 *otherwise to an equal or better condition.*

9 **Seasonal Restrictions**

10 14. *During adverse weather conditions, as determined by the Authorized*
11 *Officer, stop and start orders would be issued to prevent rutting or*
12 *excessive tracking of soil and deterioration of vegetation in the right-of-*
13 *way area.*

14 **Clearing and Site Preparation**

15 15. *Existing ground cover such as grasses, leaves, brush, and tree trimmings*
16 *would be cleared and piled only to the extent necessary. Slash and limbs*
17 *would be disposed of as directed by the appropriate agency official.*

18 **Rehabilitation and Revegetation**

19 16. *In strongly sloping and steep terrain (greater than 28 percent slope),*
20 *erosion control structures such as water bars, diversion channels, and*
21 *terraces would be constructed to divert water away from the fiber optic*
22 *cable trench and reduce soil erosion along the right-of-way and other*
23 *adjoining areas disturbed during construction, as specified and approved.*

24 17. *AT&T would dispose of materials unsuitable for backfilling or excess*
25 *backfill material at approved locations.*

26 18. *Temporary work space areas used at stream and highway crossings and*
27 *other special sites would be restored to approximate preconstruction*
28 *conditions.*

- 1 19. *Suitable mulches and other soil stabilizing practices would be used on all*
2 *regraded and topsoiled areas to protect unvegetated soil from wind and*
3 *water erosion and to improve water absorption.*
- 4 20. *Rock mulches would be used in steep-sloping rock outcrop areas and low*
5 *precipitation areas to reduce erosion and promote vegetation growth.*
- 6 21. *AT&T would revegetate disturbed areas where necessary, using agreed*
7 *upon methods suitable for the disturbed locations.*
- 8 22. *Seed would be planted by drilling, broadcasting or hydroseeding.*
- 9 23. *Seeding would be done when seasonal or weather conditions are most*
10 *favorable.*
- 11 24. *Only species adapted to local soil and climatic conditions would be used.*
12 *Generally, these would be native species. However, introduced species*
13 *may be considered for specific conditions.*
- 14 25. *Seed mixtures would be planted in the amount specified in pounds of pure*
15 *live seed/acre where necessary. There would be no primary or secondary*
16 *noxious weeds in the seed mixture. Seed would be tested, and the*
17 *viability testing of seed would be done in accordance with State laws and*
18 *within 9 months prior to purchase. Commercial seed would be either*
19 *certified or registered seed.*
- 20 *For drilling, seed would be planted using a drill equipped with a depth*
21 *regulator to ensure proper depth of planting where drilling was possible.*
22 *The seed mixture would be evenly and uniformly planted over the*
23 *disturbed area (smaller/heavier seeds have a tendency to drop to the*
24 *bottom of the drill and be planted first). AT&T would take appropriate*
25 *measures to ensure this did not occur.*
- 26 *Where drilling is not possible, seed would be broadcast and the area*
27 *raked or chained to cover the seed. When broadcasting the seed, the*
28 *pounds per acre would be doubled. The seeding would be repeated until*
29 *a satisfactory stand was established.*

- *Drilling would be used where topography and soil conditions allow operation of equipment to meet the seeding requirements of the species being planted.*
- *Broadcast seeding would be used for inaccessible or small areas.*
- *Hydroseeding would be done in critical areas.*

26. *Waterbars may be constructed to: (1) simulate the imaginary contour lines of the slope (ideally with a grade of 0 or 2 percent); (2) drain away from the disturbed area; and (3) begin and end in vegetation or rock whenever possible.*

27. *AT&T would trim all woody vegetation in preference to cutting and would cut all woody vegetation in preference to bulldozing.*

28. *The reestablishment of vegetative cover as well as watershed stabilization measures would be scheduled during the ongoing working season and prior to the succeeding winter season.*

29. *Temporary measures could include the following:*

- *Constructing temporary breakers at proper intervals on slopes and access roads to control runoff whenever applicable;*
- *Installing silt screens as silt barriers in swales, at the base of small slopes, and in other areas subject to sedimentation from low velocity runoff;*
- *Temporarily seeding critical areas such as road cuts and stream banks with an approved grass seed mixture;*
- *Mulching slopes; and,*
- *Protecting drains with barriers.*

Visual Resources

30. *Trees that must be removed would be cut. Trees with trunks outside the 15-foot (4.6 m) wide area of disturbance would not be cut, but would only have overhanging limbs removed by cutting, with the tree to remain. Limbs which are removed would be cut flush with the tree trunk to avoid leaving unsightly stubs. Trees and shrubs in the right-of-way that are not cleared would be protected from damage during construction.*

Soils and Erosion

31. *Erosion Control East of Pecho Valley Road. Potential increased erosion in the segment underlain by sand east of Pecho Valley Road along Rim Trail shall be controlled by providing waterbars at intervals no greater than 200 feet (61 m). Providing periodic diversion of runoff from the trail will reduce the rate of erosion now occurring along this segment.*

Biological Resources

32. *Revegetation Plan. The Applicant shall prepare a revegetation plan for all disturbed areas of the Project. A qualified botanist acceptable to the county and the Department of Parks and Recreation shall review and make recommendations regarding the revegetation plan before implementation. The revegetation plan shall include the following measures:*

a. General Mitigation Measures applying to all routes and improvements:

- 1) Any revegetation shall utilize seeds or cuttings collected from adjacent areas;*
- 2) As practicable, revegetation shall occur within the same vicinity as the vegetation to be removed. If it is not possible to revegetate in the same vicinity, then the revegetation shall occur at designated locations as stipulated in the revegetation plan. Unless specified, eucalyptus and other non-native species need not be replanted, but shall be replaced with native species as specified in the revegetation plan;*
- 3) Arroyo de la Cruz manzanita, Morro manzanita and coast live oak trees shall be replaced at a ratio of 5:1, with plants established from cuttings or seeds collected from the local population. The revegetation areas for manzanita shall be: (1) in cleared areas adjacent to the right-of-way or within the right-of -way if it is not used for maintenance or (2) in other areas designated by the environmental monitor (such as in areas that have been cleared of eucalyptus, trails to be abandoned or other suitable areas requiring revegetation);*

1 4) *The revegetation plan shall include the following:*

- 2 • *Species to be replanted and source of seeds and plants to be*
3 *used;*
4 • *Location of the revegetation areas;*
5 • *Timetable for revegetation;*
6 • *Method of revegetation (such as the size of plants, soil*
7 *amendments, special techniques needed to ensure successful*
8 *replanting, etc.);*
9 • *Irrigation method where needed;*
10 • *Method to verify that replanting has been successful, and;*
11 • *The standard county procedures for oak tree preservation shall*
12 *be included.*

13
14 5) *Prior to commencement of construction activities, the Applicant*
15 *shall be required to clearly mark all of the trees to be removed*
16 *during construction as well as any trees that will be trimmed. In the*
17 *case of manzanita, the marking shall be accomplished by stringing*
18 *colored surveyors tape to denote the areas where plants will be*
19 *affected;*

20 6) *Any oak trees or manzanita that are within ten feet of an area to be*
21 *graded, not including those to be removed, shall be temporarily*
22 *marked for protection (e.g., flagged with a different color surveyors*
23 *tape). The purpose of the marking is to act as a reminder to the*
24 *construction crew that these areas are not to be disturbed during*
25 *grading. Marking shall be completed prior to commencement of*
26 *any grading operations within the affected segment of the line (e.g.,*
27 *the rim trail);*

28 7) *During construction, the operation of heavy equipment shall avoid*
29 *the area within the driplines of oaks. Such equipment shall not be*
30 *parked under these trees in order to prevent oily residue from*
31 *leaking into the root zone and to avoid soil compaction in this area;*

32 8) *All trenching shall take place outside of the dripline and root zone of*
33 *all oak trees. Remedial measures ensuring the health of these*
34 *trees (i.e., pruning to eliminate growth stress) shall also be*

specified in the revegetation plan. If it is not possible to avoid the driplines of oak trees, the tree shall be considered damaged and shall be replaced as required in item #3 above;

9) The environmental monitor shall record all trees that are impacted by removal cutting and grading. The monitor will be responsible for monitoring the health of the replanted trees until it is determined that they can survive on their own for a minimum period of five years, and;

10) The width of the disturbance necessary for construction shall be kept to a minimum. It should be noted that the Applicant shall be required to replace all vegetation removed during construction, specifically with a 5:1 replacement of oak trees and manzanita and revegetation with an appropriate mix of native seeds and plants. If the environmental monitor deems that the width of the disturbance is excessive, work shall cease until it can be determined what the appropriate width should be. AT&T has indicated that the width of disturbance should not exceed 40 feet (12 m) at crossings and in areas of difficult terrain, and would average 30 feet (9 m) along the majority of the line. In areas of sensitive vegetation, it is possible to reduce the width of disturbance to 10 feet (3 m) depending on terrain conditions.

b. SLO Junction to Clark Valley Road

1) In areas of coastal scrub and Arroyo de la Cruz manzanita, the route shall follow existing roads or trails as closely as possible to reduce vegetation removal. Revegetation shall be with fast growing herbs and shall include shrubs native to the local coastal scrub community.

2) In areas of chaparral, construction shall follow the existing road, and disturb the vegetation along the side as little as possible.

c. Clark Valley Road to Los Osos Creek

1) The existing road west of Clark Valley Road shall be followed where feasible to avoid the oaks and shrubs.

2) All Morro manzanitas along the route shall be flagged and avoided where possible.

d. Los Osos Creek Crossing

1) Creek and riparian vegetation shall be disrupted as little as possible at the Los Osos Creek Crossing. The area disturbed shall be revegetated with plants native to the riparian zone as listed in the revegetation plan. Arroyo willows should be included.

e. Los Osos Creek Crossing to 0.2 Mile (0.3 km) West of the Eastern Boundary of Montaña de Oro State Park

1) The alignment shall follow the existing open pathway through the oaks. All disturbance should be as far away from the trunks as possible and outside of the drip line.

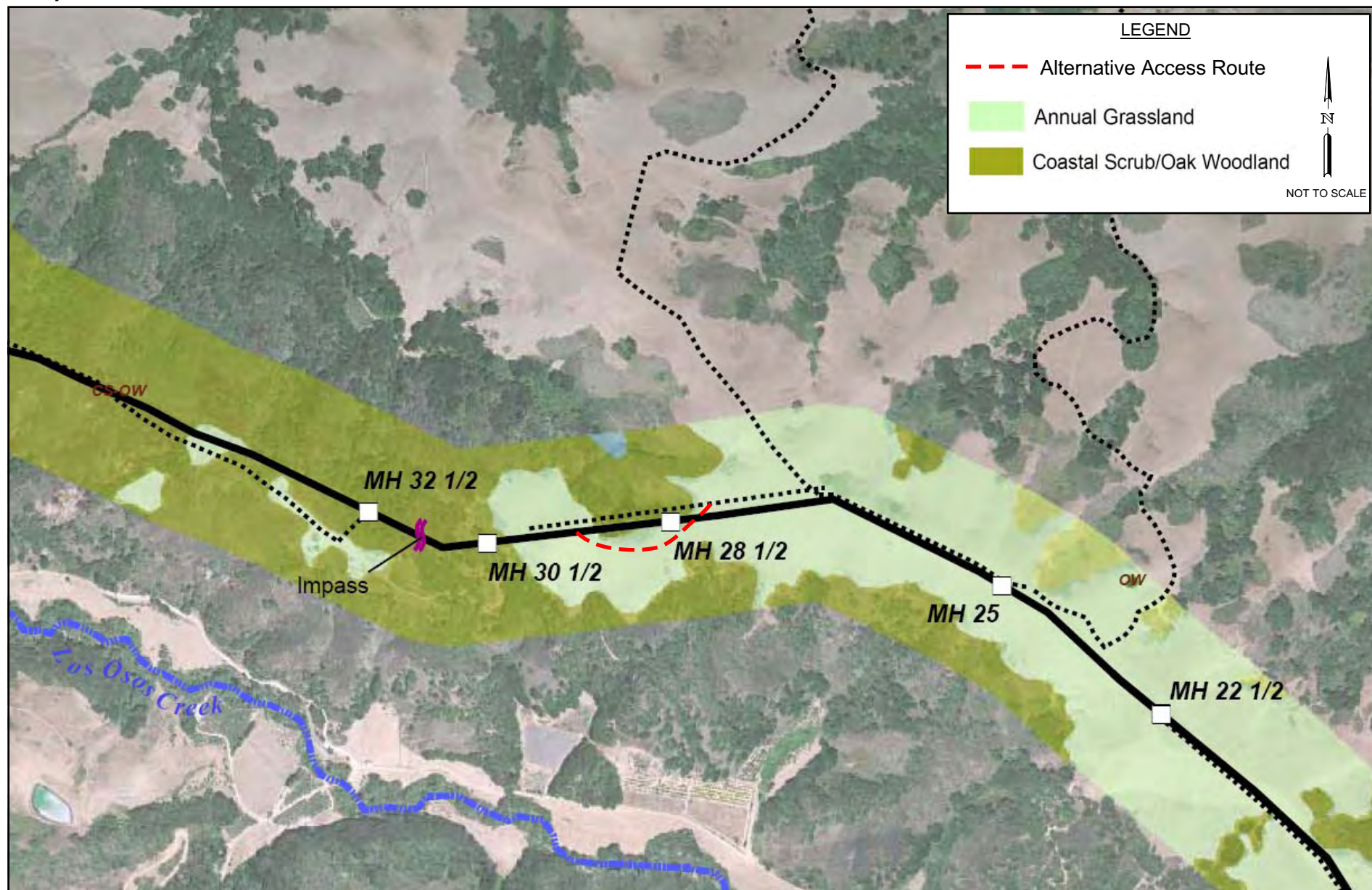
f. 0.2 Mile West of the Eastern Boundary of Montaña de Oro State Park to Hazard Canyon Road.

1) Where the Rim Trail is wide, no brush removal should be required and significant disruption to the root systems can be avoided. Trimming of manzanitas along the side of the trail may be required but shall be kept to a minimum following proper pruning procedures.

Additional TERBIO-3 Mitigation Measures

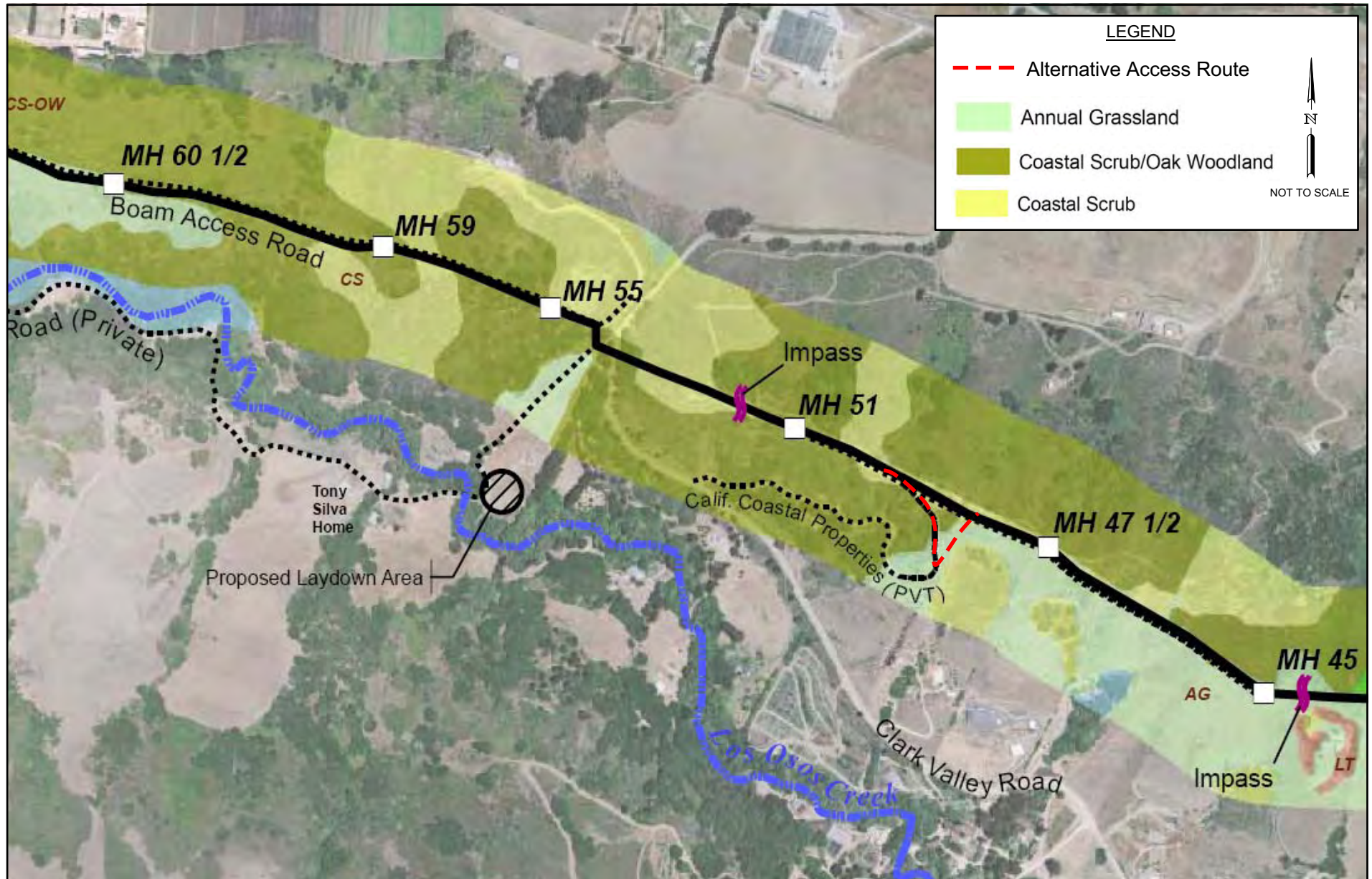
The following mitigation measures are recommended to further reduce or eliminate construction-related impacts to sensitive habitat areas known to occur or with the potential to occur along the terrestrial cable route:

MM TERBIO-3a. Oak Tree Avoidance. To avoid unnecessary pruning impacts to several oak woodland habitat areas along the right-of-way, the alternative access routes outlined on the following Figures 4.3-11 and 4.3-12 shall be utilized to access manholes 28.5 to 30.5 and 51 during all Project operations. Appropriate use of these alternate access routes would also avoid and/or minimize inadvertent soil compaction impacts to the critical root zones of oak trees at these locations due to temporary access of Project vehicles and equipment.



Source: Morro Group, Inc.

- 1 Back of Figure 4.3-11



Source: Morro Group, Inc.

- 1 Back of Figure 4.3-12

MM TERBIO-3b. Certified Arborist. To further protect and ensure the long-term health of oak woodland habitat throughout the terrestrial cable route ROW, a certified arborist shall be retained by AT&T to perform any necessary trimming of oak tree limbs overhanging equipment access routes. This shall be conducted prior to allowing construction equipment to enter the proposed impact area to avoid and/or minimize the potential for inadvertent damage to oak tree limbs (i.e., equipment, vehicles, etc.).

MM TERBIO-3c. Erosion Control Monitoring. To ensure that all repaired erosion features along the Rim Trail and any newly created erosion areas due to Project implementation are properly stabilized utilizing the erosion and sedimentation control measures outlined above, all repaired areas shall be monitored during the subsequent rainy season. Specifically, the following measures shall be implemented:

- All erosion repair areas (both minor and major) of the terrestrial cable route right-of-way shall be identified and numbered accordingly and illustrated on a site plan for easy reference;
- The stabilized erosion features shall be monitored for overall effectiveness during three significant storm events (>1-inch [2.5 cm] rain in a 24-hour period) during the pending subsequent season;
- Any erosion control deficiencies including, but not limited to rills, gullies, waterbar(s) failure, and localized slope failures shall be identified and appropriate corrective actions using the measures outlined above shall be discussed in a monitoring report;
- Copies of the monitoring report shall be provided to the appropriate regulatory agencies, landowner representatives and AT&T within 48 hours of erosion feature documentation;
- Recommended measures within the report shall then be implemented within 72 hours by an AT&T on-call contractor; and,

- Any areas requiring repair will be monitored using these same protocols the following rainy season.

Marine Habitats and Biota

Potential impacts to the marine habitats and associated biota could occur throughout the cable laying operations. Activities that could affect those resources include those resulting in seafloor disturbance (i.e., pre-lay grapnel clearance, diver support vessel anchoring, excavation around the conduit, and the laying and burial of the cable) as well as the potential impacts of water quality degradation due to wastewater discharges and from the accidental release of petroleum products from the Project vessels. Flushing of the cable pipe could also result in the discharge of contaminants into the sediments or flush water and the discharge of ballast water within the Project region could also introduce non-indigenous marine species that could compete with or replace existing native taxa. Evaluations of the anticipated impacts to the marine resources from the proposed Project activities are provided below. Less than significant and beneficial impacts are discussed first, followed by the potentially significant impacts which are numbered.

Less than Significant Impacts

Construction-related. The excavation of the sandy sediments around the conduit will result in short-term and local increases in turbidity, but is not expected to have any significant effects on the existing biota and habitat, which are routinely subjected to and adapted to wave-induced turbidity. Following completion of the cable lay operations, the excavated area is expected to refill and to support infauna and epibiota similar to that which exists.

The increase in turbidity and seafloor disturbance associated with the burial of the cable within the sedimentary seafloor habitat areas is considered a local, short-term, and less than significant impact (Class III). The areas of disturbance in water depths deeper than 120 feet (37 m) are expected to remain for up to several years; inshore of that water depth, natural deposition is expected to make the disturbed area undetectable within a few weeks of completion of the burial. Likewise, dragging the cable to the conduit prior to installation will result in seafloor disturbance and water column turbidity. Because the sedimentary habitat and associated biota within this area are routinely subjected to natural perturbations from wave action, these effects are expected to be local, short-term, and less than significant (Class III).

The introduction of non-indigenous organisms with the release of ballast water that was taken from non-California marine waters is considered a potentially significant impact (Class II); however, AT&T has committed to not discharge any ballast within 12 miles (19 km) of the shoreline, thus this potential impact has been mitigated through the proposed activities (Class III).

Operation and Abandonment. The cable between the conduit and the 6,000-foot (1,830 m) isobath will be buried within all areas of sedimentary habitat and laid across the rocky substrate. SAIC (2000) discusses the concerns of the possibility that whales, gray whales in particular, could become entangled or otherwise injured by fiber optic cables, for example during feeding. These concerns stem in part from historic records of whale entanglements in telegraph cables owned by the Western Union Telegraph Company, the Commercial Cable Company, the All American Cable Company and the Commercial Pacific Company (Heezen 1957, cited in SAIC 2000). The majority of the historic entanglements (Heezen 1957, cited in SAIC 2000) involved sperm whales and occurred off the Pacific coast of South America in depths of water less than 1,800 feet (approximately 549 m).

All of these entanglements occurred prior to 1955 in telegraph cables that would have been unburied. These historical entanglements likely occurred due to the lack of adequate slack control and burial on these telegraph systems. Since the advent of modern cable ships with slack control and plow burial, no entanglements of any type of marine organism has been reported in fiber optic cables. The risk of entanglement of demersal feeding grey whales is expected to be minimal due to the burial of the cable in sedimentary habitats to the 6,000-foot (1,830 m) isobath and minimal where it crosses the rocky substrate. The potential for this operational impact is expected to be less than significant (Class III).

A minor, but beneficial (Class IV), effect of the presence of the cable will be additional solid substrate onto which epibiota can attach. That beneficial effect is, however, limited due to the relatively short distance that the cable will not be buried and the small area of new substrate that will be exposed.

Abandonment activities will result in additional seafloor disturbance from diver, grapnel, and/or ROV-facilitated exposure and recovery of the cable, and from anchoring of work vessels. The resuspension of sediments over the cable will also increase turbidity within the water column. With removal of the cable on rocky features, the organisms attached to the cable will be lost and their substrate, represented by the cable, will be

1 permanently removed. Because the activities associated with abandonment and
2 removal are short-term, local, and will allow the habitat and biota to return to pre-
3 installation conditions, the impacts are not considered significant (Class III).

4 *Potentially Significant Impacts*

5 **Impact MARBIO-1: Potential Rock Substrate Disturbance During Pre-Lay Grapnel**
6 **Survey (Potentially Significant, Class II)**

7 The grapnel will be dragged along the proposed alignment in sedimentary seafloor
8 habitats inshore of the 6,000-foot (1,830 m) isobath and is expected to disturb a three
9 foot-wide (1 m-wide) area along the centerline of the cable lay corridor. While the
10 trench created by the grapnel in the finer grain sediments in water depths greater than
11 approximately 120 feet (37 m) is expected to take up to several years to fill in, the active
12 sediment transport in the nearshore areas is expected to fill in the seafloor alteration
13 within several weeks of the completion of the activity. Potentially significant impacts to
14 sensitive habitats and biota could occur if rock features are crossed with the grapnel.

15 Mitigation Measure for MARBIO-1: Potential Rock Substrate Disturbance During Pre-
16 Lay Grapnel Survey

17 **MM MARBIO-1. Pre-Survey Map.** The CSLC shall be provided with a grapnel
18 survey plan that includes a figure that depicts the areas where the
19 grapnel will be deployed and, within those areas of the marine
20 segment that have rocky seafloor substrate, delineates where the
21 grapnel will not be used.

22 **Impact MARBIO-2: Potential Impacts to Rock Substrate During Vessel Anchoring**
23 **and Nearshore Cable Placement (Potentially Significant, Class II)**

24 The proposed anchor plan for the diver support vessel during the shore-end segment
25 specifies a four-point system that will avoid rocky substrate located approximately 0.4
26 mile (0.6 km) offshore (west) of the conduit. The areas of cobble and larger grain
27 sediments immediately north of the conduit are not expected to support sensitive
28 species and these habitats are not considered sensitive. Potentially significant impacts
29 could, however, occur if anchors are placed upon or anchor lines cross high-relief rock
30 habitat or sensitive species (*i.e.* kelp). No anchor plan has been provided for the diver-
31 support vessel during the cable lay operations and therefore the potential for anchors or
32 anchor cables to impact rocky features offshore of the conduit exists.

The cable lay vessel will be located approximately 330 feet (100 m) offshore of the conduit and will place the cable that is to be pulled into the conduit onto the seafloor prior to insertion of the cable by divers. While sedimentary substrate characterizes the nearshore seafloor habitats at and around the conduit, rocky substrate has been recorded approximately 0.4 mile (0.6 km) offshore (west) of the conduit. Placing the cable onto the substrate could result in significant impacts to the habitat and the associated biota.

Mitigation Measures for MARBIO-2: Potential Impacts to Rock Substrate During Vessel Anchoring and Nearshore Cable Placement

MM MARBIO-2a Anchor Plan. Prior to anchoring any vessels, prepare, and have CSLC approve, a detailed anchor plan that shows all proposed anchor locations. Complete a side scan sonar or diver survey within a 100 foot- (31 m) diameter area around all proposed anchor locations and within a 20 foot- (6 m) wide corridor along all proposed anchor line alignments within those areas that have not been similarly surveyed within the past year or where rocky habitat has been previously recorded.

MM MARBIO-2b Cable Placement Area Clearance. To assure that no nearshore rocky substrate is affected, the shore-end cable shall be placed onto sedimentary seafloor. Prior to insertion of the cable, CSLC shall be provided with a figure that depicts seafloor habitat types and bathymetry and the location on the seafloor that the shore-end cable will be placed.

Impact MARBIO-3: Damage to Rock Substrate During Cable Laying (Potentially Significant, Class II)

The proposed offshore cable route follows an approximately 0.8 mile (1.3 km) seafloor corridor, which includes a 0.5 mile (0.9 km) area between the 2,800 and 2,940-foot [854 and 897 m]) isobaths and a 0.30 mile (0.51 km) of solid rock substrate (0.06 mile [0.01 km] of high relief and 0.24 mile [0.50 km] of low relief) located in approximately 230 feet (70 m) of water (AMS 2008, NEC 2008). That substrate is expected to support longer-lived epibiota including gorgonian and hard corals, sponges and rockfish. While the effects to this habitat and the associated biota are expected to be confined to the width of the cable, because deepwater high relief substrate and the associated biota are considered sensitive resources, any effect to them is considered potentially significant

and will require mitigation (Class II). The actual area of effect will not be known until the results of the post-lay survey are available.

Mitigation Measure for MARBIO-3: Damage to Rock Substrate During Cable Laying

MM MARBIO-3: Post-Lay ROV Survey, Report, and Compensation Determination. A CSLC-approved marine biologist shall be onboard the post-lay ROV survey vessel to observe and record the effects of cable lay operations on the seafloor substrates and biota in water depths of from 100 to 6,000 feet (31 and 1,830 m). A technical report that includes information on the area (in square meters) and estimated number and species of organisms affected in rocky habitats, shall be prepared and submitted to the CSLC. Restoration specifications shall be based on the results of that survey and specified by the CSLC.

Impact MARBIO-4: Marine Mammal Interaction with Cable Lay, Cable Burial and Support Vessels (Potentially Significant, Class II)

The speed of the cable lay vessel is expected to be slow enough to reduce or eliminate possible marine mammal/vessel interactions, and because no anchoring is proposed for that vessel, the potential for impacts to marine mammals, including the endangered sea otter, is expected to be less than significant. However, due to the limited maneuverability of the vessel during cable laying operations within the Project region, marine mammals traversing in a perpendicular direction to the vessel's route could collide with the vessel or become entangled in the deployed cable. Although considered to be unlikely, vessel/cable-related impacts to marine mammals are considered potentially significant and require mitigation (Class II).

According to the Project-specific cable burial assessment (NEC 2008) the vessel that supports either the ROV or sea-plow during the burial process is expected to proceed at speeds between 0.5 and 1.1 miles per hour (0.2 and 0.5 meters per second). That speed is expected to be slow enough to preclude marine mammal/vessel interaction. The vessel is expected to be limited in its maneuverability while the equipment is deployed and therefore the possibility of a marine mammal/vessel interaction is not likely, but exists. Because of their special status, impacts to marine mammals, including a collision or entanglement of a marine mammal with the vessel or ROV/sea-plow cable, respectively, are considered potentially significant, although unlikely.

The potential for support vessel-marine mammal interaction during vessel transit to and from the Project site is possible. Impacts from such a collision are considered potentially significant, although unlikely. According to NOAA Fisheries, gray whales migrate along the central coast of California from March to June and can be encountered near the Project site during this period. During that period, there is a possibility that females (cows) accompanied by their calves could be migrating through the marine waters of the Project area. An increase in Project-related vessel activity may also cause disturbance and result in separation of cows from their calves. With an anticipated offshore construction start in the second quarter (April to June) of 2009, vessel impacts to marine mammals are considered potentially significant and require mitigation (Class II)

Mitigation Measure for MARBIO-4: Marine Mammal Interaction with Cable Lay and Cable Burial Vessel

MM MARBIO-4: Marine Wildlife Contingency Plan. A marine wildlife contingency plan for the cable lay and post-lay surveys shall be prepared that will include measures to reduce the chance of vessel/marine mammal interactions within the area most likely to support the most common cetaceans. That plan shall include the provision for NOAA Fisheries-approved marine mammal monitors to be onboard the cable lay, cable burial and support vessels for complete daytime observations during marine construction activities within 50 miles (80 km) of the shore.

Impact MARBIO-5: Incidental and Accidental Vessel Discharges (Potentially Significant, Class II)

Discharges associated with the proposed Project include those from vessels (*i.e.* gray water, bilge, sanitary waste, ballast) and those that would result from an accidental release (*i.e.* fuel oil, lubricants, bunker oil). Potentially significant impacts to the water quality and the concomitant effects to the marine biota, could result from the discharge of these products and would be in violation of the Clean Coastal Act (SB 771) enacted in 2006 and designed to limit the types of discharges that ocean-going vessels can discharge within California State waters. Fluids that would decrease the dissolved oxygen content and/or are toxic to marine organisms are of particular concern.

The effects of a petroleum spill to the coastal, water column, and seafloor habitats and biota could be significant. Oil effects include alteration of habitats by coating the

existing substrate or modifying sedimentary habitats; smothering by coating epibiota; reduction in thermal protection for otters and marine birds; and toxic effects from ingestion. Refined products tend to be more toxic than crude petroleum, but also evaporate and/or dissipate quicker than heavier crude products. Irrespective, a petroleum discharge from one or more of the Project vessels could result in potentially significant effects on the existing marine resources.

Mitigation Measures for MARBIO-5: Zero Discharge Policy and Spill Response and Recovery Plan

MM-MARBIO-5a: Zero Discharge Policy. A zero-discharge policy shall be adopted for all Project vessels; no fluids shall be discharged into the marine waters shoreward of the mile-limit specified by U.S. and State of California regulations.

MM-MARBIO-5b: Spill Response and Recovery Plan. An oil spill response and recovery plan shall be prepared. When in California waters and as required by OSPR and OPA-90 regulations, sufficient onboard oil recovery equipment to respond to a specified oil spill shall be maintained. If required, contract arrangements with spill response organizations shall be established and maintained that can respond to an oil spill with the appropriate equipment and within the regulation-specified period.

Impact MARBIO-6: Damage to Rock Substrate During Maintenance and Repairs (Potentially Significant, Class II)

Repairs to the proposed cable will occur only if a defect is detected and would include recovery of the cable onboard a repair vessel and redeployment following completion of repairs. Recovery would necessitate the use of grapnels or ROV, depending upon the location of the fault and the depth of burial of the cable, which would result in some seafloor disturbance. Although the increase in turbidity and disturbance of the infauna and epibiota in and on the sediments and cable is expected to be local and a less than significant impact with habitat and the biological community returning to pre-repair conditions within a relatively short period of time, potentially significant impacts to the rock-associated biota could occur if the recovered cable is dragged across that substrate or laid over hard bottom habitats following repair.

Anchoring of vessels associated with maintenance, repair, and abandonment could affect sensitive rocky substrate and the associated biota if anchors and/or anchor lines are placed or cross over that substrate. These impacts are considered potentially significant, particularly in deeper water where long-lived and slower-growing epibiota occur.

Assuming care will be taken to return the cable to the alignment from which it came, no long term significant impacts to the marine resources from maintenance and repair are expected.

Mitigation Measure for MARBIO-6: Pre-Planning for Cable Recovery and Repair Operations

MM-MARBIO-6: Pre-Planning for Cable Recovery and Repair Operations. Prior to initiation of in-water activities, an anchoring plan for all vessels involved in maintenance, repair, and/or abandonment/removal activities shall be submitted to CSLC for approval. If necessary, an anchor-area clearance survey, similar to that recommended in Mitigation Measure MB-2a above, shall be completed.

Rational for Mitigation

The measures presented in this section provide improved protection of biological resources. These measures would help to minimize the effects on biological resources, resulting in less impact to the biological environment. The goal of the mitigation is to minimize, to the greatest extent feasible, biological impacts caused by the fiber optic cable installation.

Table 4.3-12. Summary of Biological Impacts and Mitigation Measures

Impact	Mitigation Measures
TERBIO-1: Impacts to migratory birds and raptors	Implement 1990 County Conditions of Approval, and TERBIO-1a. Avoidance of nesting period or, TERBIO-1b. If MM TERBIO-1a is infeasible, complete Pre-construction nesting bird surveys.

1

Table 4.3-12. (Continued)

Impact	Mitigation Measures
TERBIO-2: Impacts to terrestrial sensitive species	Implement 1990 County Conditions of Approval, and TERBIO-2a-k. Conduct worker orientation, biological monitoring during construction, exclusionary fencing, limits on night-time activities, obtain USFWS Incidental Take Permit or Habitat Conservation Plan, approval from State Parks on Mitigation Plan, pre-activity surveys for special-status species along cable route and Los Osos Creek crossings, and prohibit pets on-site during Project construction.
TERBIO-3: Degradation of natural habitats	Implement 1990 County Conditions of Approval, and TERBIO-3a-c. Avoid unnecessary impacts to oak trees, use certified arborist for all pruning of oak trees, install and monitor long-term erosion control devices.
MARBIO-1: Potential rock substrate disturbance during pre-lay grapnel survey	MARBIO-1: Prepare and implement pre-survey map for rock avoidance.
MARBIO-2: Impacts to rock substrate during vessel anchoring and nearshore cable placement	MARBIO-2a: Prepare and implement anchoring plan. MARBIO-2b: Cable placement area clearance procedures.
MARBIO-3: Damage to rock substrate during cable laying	MARBIO-3: Post-lay ROV Survey, report and compensation determination.
MARBIO-4: Marine mammal-vessel interaction during cable laying	MARBIO-4: Marine Wildlife Contingency Plan
MARBIO-5: Incidental and accidental vessel discharges	MARBIO-5a: Zero Discharge Policy. MARBIO-5b: Spill Response and Recovery Plan.
MARBIO-6: Damage to rock substrate during maintenance and repairs	MARBIO-6: Pre-planning for cable recovery and repair operations.

2

3 **4.3.5 Impacts of Alternatives**

4 The CEQA Guidelines emphasize that a selection of reasonable alternatives and an
5 adequate assessment of these alternatives be presented to allow for a comparative
6 analysis for consideration by decision-makers. Two alternatives are discussed for this
7 EIR: (1) No Project Alternative, and (2) Cable Re-route/Maximum Burial Alternative.

8 **No Project**

9 Because no offshore or onshore activities are proposed, the No Project Alternative
10 would not result in any impacts to biological resources within the site or region.

Cable Re-route/Maximum Burial Alternative

The Cable Re-route/Maximum Burial Alternative would result in similar impacts to terrestrial biological resources as the proposed Project; however, it would reduce the Project-related offshore impacts. Marine biological resource impacts include those associated with sediment resuspension, disturbance to hard bottom seafloor habitats, accidental petroleum discharge and possible marine mammal interaction with cable lay and cable burial vessels. These impacts are mitigable by the same measures that have been described above in Section 4.3.4 with respect to the proposed Project.

This alternative proposes a route that would minimize the area of rocky habitat crossed by the cable, which will reduce or eliminate potential impacts of the cable crossing rocky habitat and affecting the sensitive habitat and associated biota. However, this alternative will result in a larger area of impact to sedimentary seafloor habitats, which will result in an increase in turbidity. Settlement of the material is expected to be rapid and within the immediate area of the disturbance, and to result in less than significant impacts to the existing biological resources and limited to short-term turbidity increases within the immediate area. The longer installation period also increases the chances for vessel-marine mammal interactions although that increase is not considered substantial enough to result in an increase in the significance of the impacts.

4.3.6 Cumulative Projects Impact Analysis

The onshore cumulative projects have the potential to result in further removal and degradation of vegetative communities due to construction of permanent structures, introduction of impervious surfaces, and in some cases conversion of natural areas to developed lands. This may also result in indirect impacts to Los Osos Creek and associated biological resources. Therefore, it is possible that construction of these projects may result in an incremental increase of impacts to biological resources within the area. However, these cumulative impacts are not expected to alter the significance of biological resources impacts associated with the proposed Project. Additionally, none of the cumulative projects are expected to have marine construction activities that will coincide with those of the proposed Project; therefore, no cumulative impacts on biological resources are anticipated.

1

This page intentionally left blank.